

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

In The Matter Of:	)	
	)	
Cody M. Weldon	)	Case Number: 16-43726-659
Melissa K. Weldon	)	
	)	
Debtors	)	Chapter 13
	)	
U.S. Bank Trust, N.A., as Trustee for	)	Motion to Lift Stay filed by
LSF9 Master Participation Trust	)	U.S. Bank Trust, N.A., as Trustee for LSF9
	)	Master Participation Trust
Movant,	)	
	)	
vs.	)	Millsap & Singer, LLC
	)	612 Spirit Drive
Cody M. Weldon	)	St. Louis, MO 63005
Melissa K. Weldon	)	(636) 537-0110
	)	
and	)	<b>Hearing Date: May 26, 2016</b>
	)	<b>Hearing Time: 11:00 AM</b>
John V. LaBarge, Jr.	)	<b>Objection Deadline: May 26, 2016</b>
	)	
Trustee	)	
	)	
Respondents	)	
	)	

**EXPEDITED NOTICE OF HEARING AND  
MOTION TO DISMISS, OR IN THE ALTERNATIVE  
FOR RELIEF FROM THE AUTOMATIC STAY**

**WARNING: ANY RESPONSE OR OBJECTION MUST BE FILED WITH THE COURT  
BY MAY 26, 2016 (SEE L.B.R. 9013-2). A COPY MUST BE PROMPTLY SERVED  
UPON THE UNDERSIGNED. FAILURE TO FILE A TIMELY RESPONSE MAY  
RESULT IN THE COURT GRANTING THE RELIEF REQUESTED PRIOR TO THE  
HEARING DATE.**

**THE HEARING TO BE HELD ON THE DATE AND TIME ABOVE BEFORE THE  
HONORABLE KATHY A. SURRETT-STATES, IN THE UNITED STATES  
BANKRUPTCY COURT, EASTERN DISTRICT OF MISSOURI, THOMAS F.  
EAGLETON U.S. COURTHOUSE, 111 SOUTH TENTH STREET, FLOOR 7, NORTH  
COURTROOM, ST. LOUIS, MO 63102.**

COMES NOW, U.S. Bank Trust, N.A., as Trustee for LSF9 Master Participation Trust and for its Motion to Dismiss, or in the Alternative, for Relief from Automatic Stay, states as follows:

1. On May 20, 2016, Debtors filed a Petition under Chapter 13 of the Bankruptcy Code. John V. LaBarge, Jr. is the duly appointed and qualified Trustee in this case.

2. U.S. Bank Trust, N.A., as Trustee for LSF9 Master Participation Trust is the holder of a secured claim in this proceeding by virtue of one Promissory Note dated July 17, 2009 in the original principal amount of \$142,373.00. A copy of said Note has been electronically attached to this document as Exhibit A and is made a part hereof by this reference.

3. Said Note is secured by a Deed of Trust dated July 17, 2009 and recorded as Book DE5235 Page 1504 as modified by Loan Modification recorded on 4/29/2013 in Book DE6006 Page 206 and further modified by Loan Modification recorded 5/3/2013 in Book DE6010 Page 2232 constituting a first lien on real estate owned by the Debtors. Said property being commonly known as 111 Julie Lane, Saint Peters, MO 63376; more particularly described as follows:

**LOT 598 OF BROOKMOUNT ESTATES PLAT NINE, ACCORDING TO  
THE PLAT THEREOF RECORDED IN PLAT BOOK 18 PAGE(S) 19 OF  
THE ST. CHARLES COUNTY RECORDS.**

A copy of said Deed of Trust, which is recorded in the St. Charles County Recorder of Deeds Office, has been electronically attached to this document as Exhibit B and is made a part hereof by this reference.

4. Movant seeks to enforce said Note and Deed of Trust as by law allowed. No creditor or Trustee of the estate has any interest in said realty superior to the rights of Movant.

5. This Court previously entered its Order pursuant to 11 U.S.C. Section 362(a) prohibiting, among other things, any act to enforce any lien against the property of the estate and any act to obtain possession of property of the estate.

6. The current pay off on said note is as follows:

Principal	\$145,383.76
Interest	\$3,575.56
Escrow	\$5,515.51
Deferred Amounts	\$13,270.61
Required Fees	\$21.00
Fees	\$5,178.41
Foreclosure Fees and Costs	\$2,158.28
MFR Attorney Fees	\$850.00
MFR Attorney Costs	\$176.00
MFR Service Costs	\$13.29
Motion to Expedite Hearing	\$350.00
Total Pay Off	\$176,492.42

7. Monthly payments are owing and delinquent from April 1, 2015 to the present. The following are the payments that are delinquent:

8 payments @ \$711.03	\$5,688.24
6 payments @ \$659.32	\$3,955.92
Fees	\$5,178.41
Foreclosure Fees and Costs	\$2,158.28
MFR Attorney Fees	\$850.00
MFR Attorney Costs	\$176.00
MFR Service Costs	\$13.29
Motion to Expedite Hearing	\$350.00
Total Arrearages	\$18,370.14

A post-petition payment history has been electronically attached to this document as Exhibit C and is made a part hereof by this reference.

8. Debtor, Melissa K. Huebner, filed her first Chapter 13 Bankruptcy August 29, 2012 as Case Number 12-48409. The case was voluntarily dismissed September 24, 2012. Debtor, Melissa K. Weldon fka Melissa K. Huebner, filed her second Chapter 13 Bankruptcy November 4, 2015 as Case Number 15-48375. This case was filed jointly with Cody M. Weldon and was their first case filed jointly. The case was dismissed December 22, 2015 with a 180 day bar for failure to appear at the meeting of creditors. Debtors filed their second joint Chapter 13, the third case against the property, May 20, 2016 as Case Number 16-43726. Debtors filed a Motion to Waive 180 day bar May 20, 2016 but an order has not been entered on this Motion to date.

9. This is Movant's fourth attempt at foreclosure. Movant had a foreclosure sale scheduled for August 30, 2012, which was cancelled due to the borrower declaring bankruptcy on August 29, 2012. Movant had a foreclosure sale scheduled for November 6, 2015, which was cancelled due to the borrower declaring bankruptcy November 4, 2015. Movant had a foreclosure sale scheduled for February 9, 2016, which was cancelled for federally mandated review. Movant's fourth and current foreclosure sale was scheduled for May 24, 2016 and was continued until May 31, 2016.

10. The aforesaid realty has depreciated in value while in possession of the Debtors. There is no equity in said property for the benefit of the Debtors.

11. The present case is not filed in good faith as required by 11 U.S.C. Section 1325 (a)(3). The latest Chapter 13 by the Debtors was filed solely to hinder, delay and frustrate creditors of the Debtors in bad faith.

12. Movant seeks an Order prohibiting the filing by the Debtors of a new petition under the Bankruptcy Code for a period of 180 days.

13. Movant is not provided adequate protection of its interest in said property pursuant to 11 U.S.C. § 362 (d). Said property has no equity for the benefit of the Debtors and is not necessary for an effective reorganization.

WHEREFORE, Movant prays that this Court dismiss this case or, in the alternative to terminate the automatic stay in regard to the realty in order to permit Movant, or its successors and assigns to proceed with foreclosure on the aforesaid property, to pursue its remedies under state law in connection with the aforesaid Deed of Trust and Note; to pursue its remedies under state law for possession of said property after foreclosure, to proceed with any foreclosure alternatives; for an order that the relief from the automatic stay is not stayed pursuant to Rule 4001 for fourteen (14) days; for an Order prohibiting the Debtors from filing a new petition in bankruptcy for a period of 180 days from the dismissal of this case, and for such further orders as the Court deems just and proper.

Dated May 25, 2016

Respectfully Submitted,  
Millsap & Singer, LLC

/s/ William T. Holmes, II

Cynthia M. Woolverton, #47698, #47698MO

William T. Holmes, II, #59759, #59759MO

Benjamin C. Struby, #56711, #56711MO

612 Spirit Drive

St. Louis, MO 63005

Telephone: (636) 537-0110

Facsimile: (636) 537-0067

bkty@msfirm.com

Attorneys for U.S. Bank Trust, N.A., as Trustee  
for LSF9 Master Participation Trust

## **CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing document was filed electronically on May 25, 2016, with the United States Bankruptcy Court, and has been served on the parties in interest via e-mail by the Court pursuant to CM/ECF as set out on the Notice of Electronic filing as issued by the Court or in the alternative has been served by depositing a true and correct copy of same enclosed in a postage prepaid, properly addressed envelope, in a post office official depository under the exclusive care and custody of the United States Postal Service within the state of Missouri on those parties directed by the Court on the Notice of Electronic Filing issued by the Court as required by the Federal Rules of Bankruptcy Procedure and the Local Rules of the United States Bankruptcy Court.

/s/ William T. Holmes, II

### **Electronic Mail Notice List**

The following is the list of attorneys who are currently on the list to receive e-mail notices for this case.

Sean C. Paul

John V. LaBarge, Jr.

Office of the United States Trustee

### **Manual Notice List**

The following is a list of parties who are not on the list to receive e-mail notices for this case (who therefore require manual noticing).

Cody M. Weldon  
Melissa K. Weldon  
111 Julie Lane  
Saint Peters, MO 63376

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John V. LaBarge, Jr.	)	
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Trustee	)	
	)	
Respondents	)	
	)	
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**SUMMARY OF EXHIBITS AND CERTIFICATE OF SERVICE**

The following exhibits in reference to the Motion for Relief have been electronically attached as Exhibits and are available upon request in their entirety.

- A. Note
- B. Deed of Trust
- C. Post Petition Payment History

Respectfully Submitted,  
Millsap & Singer, LLC

/s/ William T. Holmes, II  
Cynthia M. Woolverton, #47698, #47698MO

William T. Holmes, II, #59759, #59759MO  
Benjamin C. Struby, #56711, #56711MO  
612 Spirit Drive  
St. Louis, MO 63005  
Telephone: (636) 537-0110  
Facsimile: (636) 537-0067  
bkty@msfirm.com  
Attorneys for U.S. Bank Trust, N.A., as Trustee  
for LSF9 Master Participation Trust

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of all documents supporting my Motion for Relief referenced above, including legible copies of all documents evidencing perfection of security interests have been served on the Trustee and Counsel for the Debtors on May 25, 2016. Copies of the above documents are available to other parties in interest upon request.

/s/ William T. Holmes, II